

# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: ARG (Per: 06/10/2009)



### Appendix A


 The 2009 drafting file for LRB-2885/P1 (For: Rep. Friske)


has been copied/added to the drafting file for

**2009 LRBb0870** (For: Rep. Friske)

 Are These “Companion Bills” ?? ... No

If yes, who in the initial requestor's office authorized the copy/transfer of the drafting history (“guts”) from the original file: \_\_\_\_\_

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2009 drafting file. The drafting file was then returned, intact, to its folder and filed.

**2009 DRAFTING REQUEST**

**Bill**

Received: **05/13/2009**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Donald Friske (608) 266-7694**

By/Representing: **Tim Gary**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - driver licenses**

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **Rep.Friske@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Third-party testing for operator's license driving skills test

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**Instructions:**

Wants to allow DOT licensed driver school instructors to administer knowledge test and road test

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 05/21/2009	bkraft 05/22/2009					State
/P1			phenry 05/22/2009		cduerst 05/22/2009		

FE Sent For:

<END>

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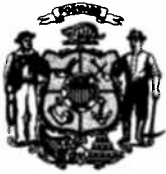
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1/?	agary	/p1bjk 5/22 PH	5/22 PH	5/22 PH			
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FE Sent For:

<END>



State of Wisconsin  
2009 - 2010 LEGISLATURE

506W

-2885/P1  
LRB 0717/D

ARG:bjk:jf

stays

FROM  
0717/1

RMNR

in 5/21

2009 ~~SENATE~~ BILL 38

Inserts  
SA  
X-ref

February 12, 2009 - Introduced by Senators LEIBHAM, HARSBORG, COWLES, S. FITZGERALD, LAZICH and GROTHMAN, cosponsored by Representatives NERISON, TOWNSEND, M. WILLIAMS, LEMAHIEU, KERKMAN, MURTHA, SPANBAUER, GUNDERSON, STRACHOTA, NYGREN, VOS and MURSAU. Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

- 1 **AN ACT** <sup>gen.</sup> *to amend* 343.16 (1) (a), 343.16 (1) (b) (intro.), 343.16 (1) (b) 2., 343.16  
2 (1) (b) 3. (intro.), 343.16 (1) (b) 4. and 343.16 (1) (b) 5. of the statutes; **relating**  
3 **to:** permitting ~~third-party testers~~ <sup>driver schools</sup> to administer driving skills tests for certain  
4 noncommercial motor vehicle drivers.

**Analysis by the Legislative Reference Bureau**

Under current law, with limited exceptions, applicants for an operator's license are required to successfully complete a knowledge test and a driving skills (road) test. Generally Department of Transportation (DOT) examiners must administer road tests except that DOT may contract with third-party testers to conduct road tests for commercial motor vehicle operators and school bus operators.

This bill permits DOT to contract with third-party testers to conduct road tests for "Class D" vehicle operators. "Class D" vehicles include most noncommercial motor vehicles other than Type 1 motorcycles.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

- 5 **SECTION 1.** 343.16 (1) (a) of the statutes is amended to read:

## SENATE BILL 58

## SECTION 1

1           343.16 (1) (a) *General.* The Except when examination by a 3rd-party tester is  
2 permitted under pars. (b) and (c), the department shall examine every applicant for  
3 an operator's license, including applicants for license renewal as provided in sub. (3),  
4 and every applicant for authorization to operate a vehicle class or type for which the  
5 applicant does not hold currently valid authorization, other than an instruction  
6 permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants  
7 for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or  
8 "Class M" vehicles shall include both a knowledge test and an actual demonstration  
9 in the form of a driving skills test of the applicant's ability to exercise ordinary and  
10 reasonable control in the operation of a representative vehicle. The department shall  
11 not administer a driving skills test to a person applying for authorization to operate  
12 "Class M" vehicles who has failed 2 previous such skills tests unless the person has  
13 successfully completed a rider course approved by the department. The department  
14 may, by rule, exempt certain persons from the rider course requirement of this  
15 paragraph. The department may not require a person applying for authorization to  
16 operate "Class M" vehicles who has successfully completed a basic rider course  
17 approved by the department to hold an instruction permit under s. 343.07 (4) prior  
18 to the department's issuance of a license authorizing the operation of "Class M"  
19 vehicles. The department may not require a person applying for authorization to  
20 operate "Class M" vehicles who holds an instruction permit under s. 343.07 (4) to  
21 hold it for a minimum period of time before administering a driving skills test. The  
22 driving skills of applicants for endorsements authorizing the operation of  
23 commercial motor vehicles equipped with air brakes, the transportation of  
24 passengers in commercial motor vehicles or the operation of school buses, as provided  
25 in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration of driving

## SENATE BILL 58

1 skills. The department may endorse an applicant's commercial driver license for  
2 transporting hazardous materials requiring placarding or any quantity of a material  
3 listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the  
4 operation of tank vehicles or vehicles towing double or triple trailers, as described  
5 in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge test. In  
6 administering the knowledge test, the department shall attempt to accommodate  
7 any special needs of the applicant. Except as may be required by the department for  
8 an "H" or "S" endorsement, the knowledge test is not intended to be a test for literacy  
9 or English language proficiency. This paragraph does not prohibit the department  
10 from requiring an applicant to correctly read and understand highway signs.

11 **SECTION 2.** 343.16 (1) (b) (intro.) of the statutes is amended to read:

12 343.16 (1) (b) *Third-party testing.* (intro.) The department may contract with  
13 a person, including an agency or department of this state or its political subdivisions  
14 or another state, or a private employer of commercial motor vehicle drivers, to  
15 administer commercial motor vehicle skills tests required by 49 CFR 383.110 to  
16 383.135, examinations required to be administered under s. 343.12 (2) (h) and,  
17 abbreviated driving skills tests required by sub. (3) (b), or driving skills tests  
18 required by par. (a) for authorization to operate "Class D" vehicles, or any  
19 combination of these tests and examinations. The department may not enter into  
20 such testing contracts with a private driver training school or other private  
21 institution except a private employer of commercial motor vehicle drivers. A contract  
22 with a 3rd-party tester shall include all of the following provisions:

23 **SECTION 3.** 343.16 (1) (b) 2. of the statutes is amended to read:

24 343.16 (1) (b) 2. The department, the federal highway administration or its  
25 representative, or the federal highway administration with respect to testing for

Insert  
3-11

**SENATE BILL 58****SECTION 3**

1 commercial driver licenses, may conduct random examinations, inspections, and  
2 audits of the 3rd-party tester without any prior notice.

3 **SECTION 4.** 343.16 (1) (b) 3. (intro.) of the statutes is amended to read:

4 343.16 (1) (b) 3. (intro.) At least annually, the department shall conduct an  
5 on-site inspection of the 3rd-party tester to determine compliance with the contract  
6 and with department and federal standards for testing applicants for commercial  
7 driver licenses and with department standards for testing applicants for school bus  
8 endorsements and applicants for operators' licenses to operate "Class D" vehicles.  
9 At least annually, the department shall also evaluate testing given by the 3rd-party  
10 tester by one of the following means:

11 **SECTION 5.** 343.16 (1) (b) 4. of the statutes is amended to read:

12 343.16 (1) (b) 4. Examiners of the 3rd-party tester shall meet the same  
13 qualifications and training standards as the department's license examiners to the  
14 extent established by the department as necessary to satisfactorily perform the skills  
15 tests required by 49 CFR 383.110 to 383.135, examinations required to be  
16 administered under s. 343.12 (2) (h) ~~and~~, abbreviated driving skills tests required by  
17 sub. (3) (b), and driving skills tests required by par. (a) for authorization to operate  
18 "Class D" vehicles.

19 **SECTION 6.** 343.16 (1) (b) 5. of the statutes is amended to read:

20 343.16 (1) (b) 5. The department shall take prompt and appropriate remedial  
21 action against the 3rd-party tester in the event that the tester fails to comply with  
22 department or federal standards for commercial driver license testing, department  
23 standards for school bus endorsement testing or testing for operators' licenses to

**SENATE BILL 58**

- 1     operate "Class D" vehicles, or any provision of the contract. Such action may include
- 2     immediate termination of testing by the 3rd-party tester and recovery of damages.

(END)

Insert  
5-3

D-note



**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2885/P1ins  
ARG:.....

**INSERT ANAL:**

Under current law, with limited exceptions, an applicant for an operator's license is required to successfully complete a knowledge test and a driving skills (road) test. Generally, Department of Transportation (DOT) examiners must administer these tests, except that: 1) DOT may authorize driver education instructors, including those employed by ~~DOT~~ licensed driver schools, to administer knowledge tests; and 2) DOT may contract with third-party testers to conduct road tests for commercial motor vehicle (CMV) and school bus operators. However, DOT may not contract for third-party road testing with a private driver training school or another private institution. A contract between DOT and a third-party road tester must include specified provisions.

This bill permits DOT to contract with licensed driver schools for their licensed instructors to administer driving skills tests for "Class D" vehicle operators. "Class D" vehicles include most noncommercial motor vehicles other than Type 1 motorcycles. The bill also modifies the ~~existing~~ prohibition on DOT contracting for third-party CMV and school bus road testing with private driver training schools or other private institutions.

**INSERT 3-11:**

**SECTION 1.** 343.16 (1) (b) (intro.) of the statutes is amended to read:

343.16 (1) (b) *Third-party testing.* (intro.) The department may contract with a person, including an agency or department of this state or its political subdivisions or another state, or a private employer of commercial motor vehicle drivers but excluding a driver school licensed under s. 343.61, to administer commercial motor vehicle skills tests required by 49 CFR 383.110 to 383.135, examinations required to be administered under s. 343.12 (2) (h), and abbreviated driving skills tests required by sub. (3) (b). ~~The department may not enter into such testing contracts with a private driver training school or other private institution~~ also contract with a driver school licensed under s. 343.61 for instructors of the school licensed under s. 343.62 to administer driving skills tests required by par. (a) for authorization to operate

1 "Class D" vehicles. A contract with a 3rd-party tester shall include all of the  
2 following provisions:

3 History: 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345;  
1981 c. 20; 1983 a. 74, 243, 534, 538; 1985 a. 65, 337; 1987 a. 3, 40, 215; 1989 a. 31, 105, 359; 1991 a. 21, 32, 39, 316; 1993 a. 16, 19, 183, 399; 1995 a. 27 s. 9145 (1); 1995  
a. 113, 195, 448; 1997 a. 27, 84, 237; 1999 a. 32, 140; 2001 a. 105; 2003 a. 33; 2005 a. 187, 253, 466; 2007 a. 20, 68, 97, 162.

4 **INSERT 5-3:**

5 **SECTION 2.** 343.72 (5m) of the statutes is amended to read:

6 343.72 (5m) No driver school may represent that completion of a course of  
7 instruction will guarantee that the student will pass the driving skills test  
8 administered by the department or the driver school. A driver school may only  
9 represent by means of a certificate of completion that the student has satisfactorily  
10 completed the required course.

11 **SECTION 3.** 343.72 (6) of the statutes is amended to read:

12 343.72 (6) All licensees must ascertain from ~~state license examiners~~ the route  
13 ~~over the department~~ the routes in the licensee's locale on which road tests are given,  
14 and no by state license examiners or by driver school. No licensee may instruct in  
15 those areas on these routes, except that driver schools may operate ~~on a division of~~  
16 ~~motor vehicle skills test route~~ on these routes if comparable training location  
17 opportunities are not otherwise available in the locale.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2885/P1dn

ARG:.....

Date

L bjk

ATTN: Tim Gary

Please review the attached draft carefully to ensure that it is consistent with your intent.

There is a logical inconsistency in existing s. 343.16 (1) (b) (intro.) and, unfortunately, it is necessary to deal with the conflicting language in this provision. Please advise if the treatment of this provision in the attached draft is not consistent with your intent.

I note that this draft is similar but not identical to 2009 SB-58 and 2009 AB-216.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2885/P1dn  
ARG:bjk:ph

May 22, 2009

ATTN: Tim Gary

Please review the attached draft carefully to ensure that it is consistent with your intent.

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Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: [aaron.gary@legis.wisconsin.gov](mailto:aaron.gary@legis.wisconsin.gov)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-2885/P1  
ARG:bjk:ph

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1     **AN ACT** *to amend* 343.16 (1) (a), 343.16 (1) (b) (intro.), 343.16 (1) (b) 2., 343.16  
2           (1) (b) 3. (intro.), 343.16 (1) (b) 4., 343.16 (1) (b) 5., 343.72 (5m) and 343.72 (6)  
3           of the statutes; **relating to:** permitting driver schools to administer driving  
4           skills tests for certain noncommercial motor vehicle drivers.

---

***Analysis by the Legislative Reference Bureau***

Under current law, with limited exceptions, an applicant for an operator's license is required to successfully complete a knowledge test and a driving skills (road) test. Generally, Department of Transportation (DOT) examiners must administer these tests, except that: 1) DOT may authorize driver education instructors, including those employed by licensed driver schools, to administer knowledge tests; and 2) DOT may contract with third-party testers to conduct road tests for commercial motor vehicle (CMV) and school bus operators. However, DOT may not contract for third-party road testing with a private driver training school or another private institution. A contract between DOT and a third-party road tester must include specified provisions.

This bill permits DOT to contract with licensed driver schools for their licensed instructors to administer driving skills tests for "Class D" vehicle operators. "Class D" vehicles include most noncommercial motor vehicles other than Type 1 motorcycles. The bill also modifies the prohibition on DOT contracting for third-party CMV and school bus road testing with private driver training schools or other private institutions.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

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5 and every applicant for authorization to operate a vehicle class or type for which the  
6 applicant does not hold currently valid authorization, other than an instruction  
7 permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants  
8 for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or  
9 "Class M" vehicles shall include both a knowledge test and an actual demonstration  
10 in the form of a driving skills test of the applicant's ability to exercise ordinary and  
11 reasonable control in the operation of a representative vehicle. The department shall  
12 not administer a driving skills test to a person applying for authorization to operate  
13 "Class M" vehicles who has failed 2 previous such skills tests unless the person has  
14 successfully completed a rider course approved by the department. The department  
15 may, by rule, exempt certain persons from the rider course requirement of this  
16 paragraph. The department may not require a person applying for authorization to  
17 operate "Class M" vehicles who has successfully completed a basic rider course  
18 approved by the department to hold an instruction permit under s. 343.07 (4) prior  
19 to the department's issuance of a license authorizing the operation of "Class M"  
20 vehicles. The department may not require a person applying for authorization to  
21 operate "Class M" vehicles who holds an instruction permit under s. 343.07 (4) to

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2 driving skills of applicants for endorsements authorizing the operation of  
3 commercial motor vehicles equipped with air brakes, the transportation of  
4 passengers in commercial motor vehicles or the operation of school buses, as provided  
5 in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration of driving  
6 skills. The department may endorse an applicant's commercial driver license for  
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8 listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the  
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21 vehicle skills tests required by 49 CFR 383.110 to 383.135, examinations required to  
22 be administered under s. 343.12 (2) (h), and abbreviated driving skills tests required  
23 by sub. (3) (b). The department may ~~not enter into such testing contracts with a~~  
24 ~~private driver training school or other private institution~~ also contract with a driver  
25 school licensed under s. 343.61 for instructors of the school licensed under s. 343.62

1 to administer driving skills tests required by par. (a) for authorization to operate  
2 "Class D" vehicles. A contract with a 3rd-party tester shall include all of the  
3 following provisions:

4 **SECTION 3.** 343.16 (1) (b) 2. of the statutes is amended to read:

5 343.16 (1) (b) 2. The department, ~~the federal highway administration~~ or its  
6 representative, or the federal highway administration with respect to testing for  
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8 audits of the 3rd-party tester without any prior notice.

9 **SECTION 4.** 343.16 (1) (b) 3. (intro.) of the statutes is amended to read:

10 343.16 (1) (b) 3. (intro.) At least annually, the department shall conduct an  
11 on-site inspection of the 3rd-party tester to determine compliance with the contract  
12 and with department and federal standards for testing applicants for commercial  
13 driver licenses and with department standards for testing applicants for school bus  
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15 At least annually, the department shall also evaluate testing given by the 3rd-party  
16 tester by one of the following means:

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1           343.16 (1) (b) 5. The department shall take prompt and appropriate remedial  
2           action against the 3rd-party tester in the event that the tester fails to comply with  
3           department or federal standards for commercial driver license testing, department  
4           standards for school bus endorsement testing or testing for operators' licenses to  
5           operate "Class D" vehicles, or any provision of the contract. Such action may include  
6           immediate termination of testing by the 3rd-party tester and recovery of damages.

7           **SECTION 7.** 343.72 (5m) of the statutes is amended to read:

8           343.72 (5m) No driver school may represent that completion of a course of  
9           instruction will guarantee that the student will pass the driving skills test  
10          administered by the department or the driver school. A driver school may only  
11          represent by means of a certificate of completion that the student has satisfactorily  
12          completed the required course.

13          **SECTION 8.** 343.72 (6) of the statutes is amended to read:

14          343.72 (6) All licensees must ascertain from ~~state license examiners the route~~  
15          ~~over the department the routes in the licensee's locale on~~ which road tests are given,  
16          ~~and no by state license examiners or by driver schools. No~~ licensee may instruct in  
17          ~~those areas on these routes,~~ except that driver schools may operate ~~on a division of~~  
18          ~~motor vehicle skills test route~~ on these routes if comparable training location  
19          opportunities are not otherwise available in the locale.

20

(END)